



**CITY OF BATTLE CREEK**  
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

**MEETING NOTICE OF THE  
ZONING BOARD OF APPEALS**

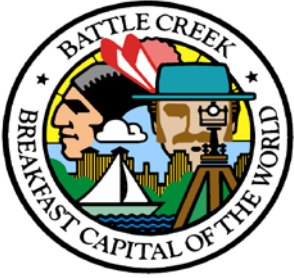
**DATE:** Tuesday, February 12, 2019

**TIME:** 4:00 p.m.

**PLACE:** Room 301, City Hall (Commission Chambers)

1. **CALL TO ORDER:**
2. **ATTENDANCE:**
3. **ADDITIONS OR DELETIONS TO AGENDA:**
4. **CORRESPONDENCE:**
5. **OLD BUSINESS:**
6. **NEW BUSINESS:**
  - A. **Z-03-19 (32 W. Michigan Ave):** Petition is for Tara Hampton 5610 N. Red Pine Circle Portage MI 49009. Request is made for a Dimensional Variance to allow a sign larger than 18” allowed by the ordinance to be installed. Chapter 1296.07.
7. **APPROVAL OF MINUTES:** January 8, 2019 Zoning Board Meeting Minutes
8. **COMMENTS BY THE PUBLIC:**
9. **COMMENTS BY THE MEMBERS:**
10. **ADJOURNMENT:**

The City of Battle Creek will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered in the meeting upon notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services should contact the City of Battle Creek by writing or calling the following: Office of the City Clerk, P. O. Box 1717 / 10 North Division - Suite 111, Battle Creek, MI 49016 / Phone: (269) 966-3348 (Voice) / (269) 966-3348 (TDD)



## **Battle Creek Zoning Board of Appeals**

### **Staff report for the January 8, 2018 Meeting**

**To:** Zoning Board of Appeals  
**From:** Glenn Perian, Senior Planner  
**Date:** December 31, 2018  
**Subject:** Variance Request  
Z-03-19, Tara Hampton, is requesting a variance to install a sign that projects more than 18" from a wall face on commercially zoned property at 32 W. Michigan Avenue Property ID # 0020-15-043-6.

---

#### **Summary**

A petition from Tara Hampton requesting variances from Chapters 1296.07(b)(3) to allow a 7 sq. ft.+/- projection sign on the face of the building at 32 W. Michigan Ave.

#### **Background/Project Information**

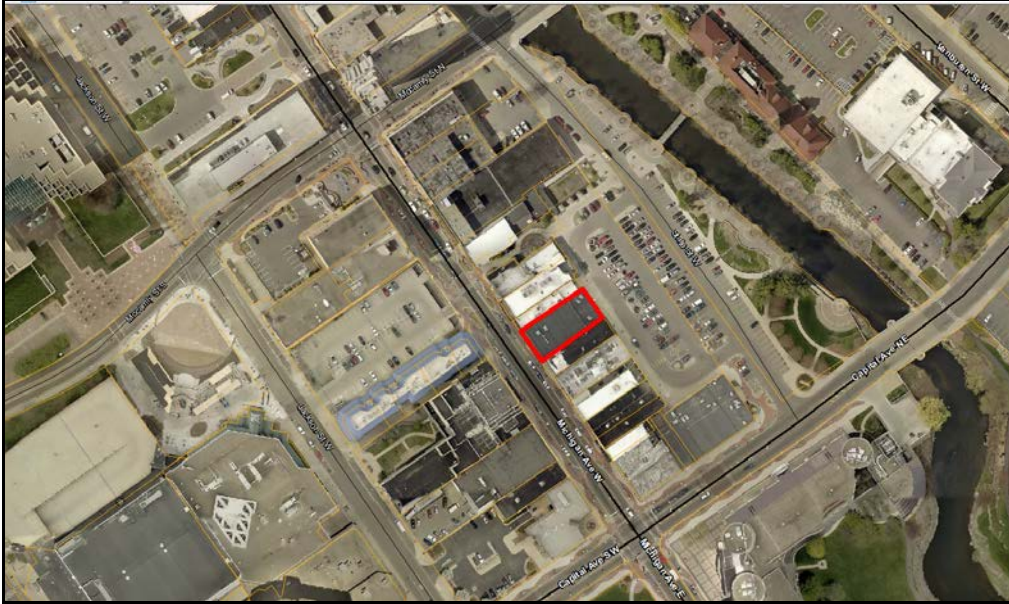
The subject property is located on the north side of W. Michigan Ave, between McCamly and Capital Ave NE in central downtown. The property has approximately 60' of frontage along Michigan Ave and is a multi-tenant building. Approval of a variance will allow the applicant to proceed to the HDC for sign permit approvals.

The Appellant has provided a plan of the proposed sign and a photo of where on the building the proposed sign will be located. We expect a representative to be at the meeting to answer any questions you may have related to the request.

#### **Public Hearing and Notice Requirements**

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on December 20, 2018, not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail to property owners and occupants located within 300' of the subject parcel. As of the writing of this report, we have not received any comments relating to this request.



Subject property

### **Variance Requested**

The Appellant is seeking a sign variance to advertise the Salon K located at 32 W. Michigan in downtown Battle Creek. As most of you know, the City Commission at the recommendation of the Planning Commission have recently adopted new sections of the Planning and Zoning Code related to signs (Chapter 1296). The new standard for signs were officially adopted by the City Commission on December 19, 2017.

**Chapter 1296.07 COMMERCIAL AND INDUSTRIAL DISTRICTS**, in part, states

*(b) Each parcel used in accordance with permitted uses in the commercial zoning districts...are permitted:*

*(3) ...Wall signage shall not exceed the 1.2 time building frontage. **They shall not project more than 18 inches, and cannot exceed 10% of the walls total area...***

The Applicant is requesting a variance to install a sign 3' in diameter, perpendicular to the wall face at 32 W. Michigan Ave.

### **Applicable Zoning Ordinance Provisions**

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and

substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

**Analysis**

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting a variance to install a 3' diameter sign perpendicular to the wall face along the downtown corridor of Michigan Ave. The Appellant has supplied reasons supporting the request for appeal and they are included with the application and part of this report.

**Findings and Recommendation**

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below and the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variances (Z-03-19) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does in fact exist if the strict requirement of the ordinance is applied to this specific building project and that the Board is authorized to approve the variance in this case. The appellant states the practical difficulty includes the fact that multiple tenants occupy the building and advertising for the salon is required. The building is located in the downtown corridor and staff would expect that many of the clients of the salon would be parking elsewhere and using the sidewalk along Michigan Ave to access the business.
- B) Staff believes that the practical difficulty is exceptional and peculiar to the subject parcel and the conditions associated with the property do not generally exist throughout the City. Staff believes the downtown area is unique in attracting pedestrian traffic and this type of sign would be beneficial for people walking and trying to locate the business.
- C) Staff believes that if the variance is granted that the intent of the Ordinance will not be altered. In fact we believe the sign will add to the character of downtown making it a more vibrant area for other businesses and their patrons.
- D) Staff would like to remind the Board that any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant. We believe the Applicant has met this test outlined in the ordinance.

### **Attachments**

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-03-19)



# City of Battle Creek

Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • [www.battlecreekmi.gov](http://www.battlecreekmi.gov)

Appeal No. \_\_\_\_\_

Date: \_\_\_\_\_

## **APPLICATION FOR A VARIANCE** **ZONING BOARD OF APPEALS**

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Tara Hampton

Address: 32 West Michigan Ave Phone: 269-830-4675

Name of Owner (if different from Appellant): \_\_\_\_\_

Address: 5601 N. Red Pine Circle Phone: 269-830-4675  
49009

**TO THE ZONING BOARD OF APPEALS:** Request is hereby made for permission to: Dimensional  
(Choose One) Extend Erect Appeal Use Convert Enclose

Description: 32 is the only fully occupied building, it would serve it's businesses to have a presence outside the building. A size that flows + is visual to customers

Contrary to the requirements of Section(s) \_\_\_\_\_ of the Planning and Zoning Code, upon the premises known as 32 West Michigan Ave Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

Approval of Salon K signage being larger than what is allowed (18") to 3'

Property/Tax I.D. # No \_\_\_\_\_ Size of the Lot: Width 67' Depth 135'

Size of Proposed Building: Width 61' Depth 125' Height \_\_\_\_\_

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

The sign will look proportionately too small  
& not visible for business customers.

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

We are full w/ multiple tenants.  
Actually it is questionable that neighbors  
are within variance.

- (c.) Granting the variance would not alter the essential character of the area because:

Signage is being done w/ stellar quality,  
professional design team & f/pas with  
the look

- (d.) The problem is not self-created because:

Again we have 5 tenants in one building  
where presence is important

- (e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

Tara Hampton  
(Print Appellant Name)

  
(Signature of Appellant)

5601 N. Red Pine Circle 49009  
(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.







## EXTERIOR SIGNAGE

### Understood Signage Requirements:

12.5 ~~10.5~~ sf total area (includes both signs)  
Maximum of 18" protrusion from existing building face

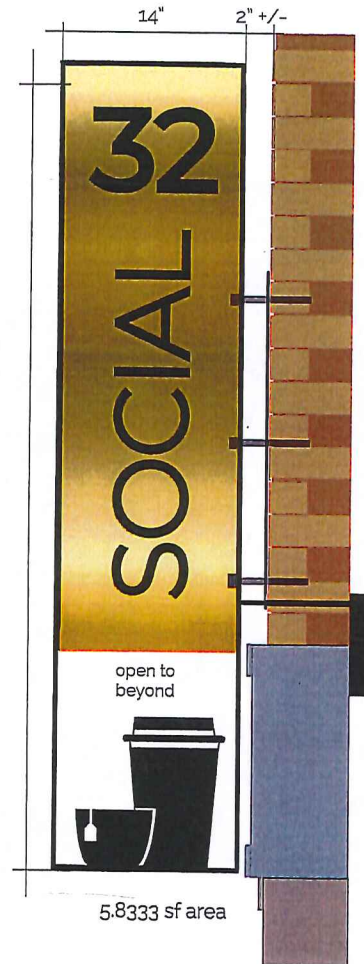
#### SALON K

double-sided illuminated sign with  
route-cut face and gold graphic and  
powder-coated frame



3'-0" diameter - 7.05 sf area

3' ROUND OPTION



5.8333 sf area

VERTICAL OPTION

#### 32 SOCIAL

double sided illuminated sign, route-cut black  
face, push through poly with dimensional pol-  
ished brass letters / logo, powder-coated frame  
and 14 x 60 overall

not to scale

**ZONING BOARD OF APPEALS**  
**MEETING MINUTES**  
**January 8, 2019**  
**4:00 P.M.**

**CALL TO ORDER:**

Mr. James Moreno, Chairperson called meeting to order at 4:00 P.M.

**ATTENDANCE:**

**Members Present:**

Deland Davis	Bill Hanner
John Stetler	Mark Jones
James Moreno	Michael Delaware

**Staff Present:**

Marcel Stoetzel, Deputy City Attorney  
Glenn Perian, Senior Planner, Planning Dept.  
Eric Feldt, Planner, Planning Dept.  
Laura Rounds, Customer Service Rep., Planning Dept.

**ADDITIONS OR DELETIONS TO THE AGENDA:** Election of Officers

**CORRESPONDANCE:** Email from Darlen Bowman was received on 1.8.2019 at 11:57 am regarding Z-01-1 in opposition

**OPENING COMMENTS:** *Mr. Jim Moreno, Chairperson stated the meeting procedure where everyone present may speak either for or against an appeal and that he will ask for a staff report to be read and then open the public hearing. At the public hearing, persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. If a petition has been denied the petitioner has the right to appeal to Circuit Court.*

**OLD BUSINESS:** None

**NEW BUSINESS:**

**Z-01-19 (664 SW Capital Ave):**

Petition is for Timothy & Kerenda Bruneel 900 Upton Ave Springfield MI 49037. Requesting a Use Variance to operate a Tattoo and Piercing Parlor to operate in a C2 General Business.

**Chair Mr. Moreno asked the applicant to come forward and speak regarding the request for a variance.**

- Timothy and Kerenda Bruneel spoke on behalf of their request for a variance
- Glenn Perian gave staff report

**Chair Mr. Moreno asked if there are any members of the public present to either speak for or against the variance.**

Glenn Perian read the email from Darlen Bowman expressing her opposition

*Chair Mr. James Moreno asked if there was any further discussion; seeing none, he would close the Public Hearing and entertain a motion.*

**MOTION WAS MADE BY MR. MARK JONES AND SECONDED BY MR. DELAND DAVIS TO APPROVE APPEAL #Z-01-19 FOR A USE VARIANCE WITH THE CONDITIONS RECOMMENDED IN THE STAFF REPORT TO ALLOW A TATTOO AND PIERCING PARLOR TO OPERATE IN A C2 GENERAL BUSINESS . PERMIT APPLICATION IS REQUESTED PURSUANT TO PLANNING AND ZONING CODE, CHAPTERS 1234.04(B)(2).**

**MR. JAMES MORENO ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; FOUR APPROVED (DELAND DAVIS, MICHAEL DELAWARE, BILL HANNER, MARK JONES) TWO OPPOSED (JAMES MORENO, JOHN STETLER); MOTION DENIED.**

**Z-02-19 (5740 Beckley Road):**

Petition is for AMERCO Real Estate 2727 N Central Ave Ste. 500 Phoenix AZ 85004. Request a Dimensional variance to allow Self Storage Units to be allowed within the 35' setback in a C6 Major Highway Interchange Business.

**Chair Mr. Moreno asked the applicant to come forward and speak regarding the request for a variance**

- John President of U-Haul of Michigan gave presentation of project
- Glenn Perian gave staff report

**Chair Mr. Moreno asked if there are any members of the public present to either speak for or against the variance.** None were present that requested to speak.

**MOTION WAS MADE BY MR. MICHAEL DELAWARE AND SECONDED BY MR. DELAND DAVIS TO APPROVE APPEAL #Z-02-19 FOR A DIMENSIONAL VARIANCE TO ALLOW SELF STORAGE UNITS TO BE ALLOWED WITHIN THE 35' SETBACK IN A C6 MAJOR HIGHWAY INTERCHANGE BUSINESS. PERMIT APPLICATION IS REQUESTED PURSUANT TO PLANNING AND ZONING CODE, CHAPTERS 1234.04.**

**MR. JAMES MORENO ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; SIX APPROVED (DELAND DAVIS, MICHAEL DELAWARE, BILL HANNER, MARK JONES, JAMES MORENO, JOHN STETLER) MOTION APPROVED.**

**Z-03-19 (32 W. Michigan Ave):**

Petition is for Tara Hampton 5610 N. Red Pine Circle Portage MI 49009. Request is made for a Dimensional Variance to allow a sign larger than 18" allowed by the ordinance to be installed. Chapter 1296.07.

Due to no applicant or representative present the board voted to postpone until the applicant or a representative is able to be present.

**MOTION WAS MADE BY MR. JOHN STETLER AND SECONDED BY MR. DELAND DAVIS TO POSTPONE APPEAL #Z-03-19 FOR A DIMENSIONAL VARIANCE TO ALLOW A SIGN LARGER THAN 18" ALLED BY THE ORDINANCE TO BE INSTALLED. PERMIT APPLICATION IS REQUESTED PURSUANT TO PLANNING AND ZONING CODE, CHAPTERS 1234.04.**

**MR. JAMES MORENO ASKED FOR ANY ADDITIONAL COMMENTS, SEEING NONE A VOTE WAS TAKEN; SIX APPROVED (DELAND DAVIS, MICHAEL DELAWARE, BILL HANNER, MARK JONES, JAMES MORENO, JOHN STETLER) MOTION TO POST PONE APPROVED.**

**ELECTION OF OFFICERS:**

MOTION WAS MADE FOR JAMES MORENO TO BE CHAIRMAN BY MR. DELAND DAVIS, SECONDED BY MR. BILL HANNER. ALL IN FAVOR; NONE OPPOSED.

MOTIONS WAS MADE FOR BILL HANNER TO BE VICE CHAIRMAN BY MR. MIKE DELAWARE, SECONDED BY MR. JAMES MORENO. ALL IN FAVOR; NONE OPPOSED.

**Chair James Moreno asked for motion on July 2018 meeting minutes.**

**Mike Delaware noted that there was a sentence not grammatically correct and asked for the minutes to be amended.**

**MOTION MADE BY MR. DELAND DAVIS ON THE JULY 10, 2018 ZONING BOARD OF APPEALS MINUTES WITH AMENDMENTS, SECONDED BY MR. MIKE DELAWARE. ALL IN FAVOR; NONE OPPOSED; MINUTES APPROVED.**

**COMMENTS BY THE PUBLIC:** None

**COMMENTS BY THE MEMBERS / STAFF:**

Mark Jones moved to make a motion that they send a letter to City Commission to revisit the tattoo parlor zoning to include their location in the General Business District.

Glenn Perian discussed sending the letter to the Planning Commission which will then move to City Commission.

Marcel Stoetzel recommended the letter be sent to the City Commission.

**A MOTION WAS MADE BY MR. MARK JONES AND SECONDED BY MR. MIKE DELAWARE. ALL IN FAVOR; NONE OPPOSED**

**ADJOURNMENT:** Chair James Moreno made a motion for the meeting to be adjourned; all stated in favor, meeting was adjourned at 4:36 P.M.

Submitted by: Laura Rounds Customer Service Representative, Planning Department